

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 HASSAN ALI,

12 Plaintiff(s),

No. C 11-4094 PJH

13 v.

**ORDER GRANTING MOTION TO
REMAND AND DENYING MOTION
TO DISMISS**

14 STERICYCLE, INC., et al.,

15 Defendant(s).

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17 Before the court are plaintiff's motion to remand and defendants Davis and Del Rio's
18 motion to dismiss, both premised on the same issue – whether the two individual
19 defendants are "sham" defendants which would destroy diversity jurisdiction. The court has
20 reviewed the briefs and supporting papers of the parties and determined that oral argument
21 would not be helpful. Based upon this review, the court finds that plaintiff has stated a
22 viable claim of intentional infliction of emotional distress against the two individual
23 defendants. While defendants' merits based argument might well suggest that plaintiff may
24 have difficulty proving their conduct was extreme and outrageous, the court finds that for
25 pleading purposes, the factual allegations are sufficient. Moreover, even if the court was
26 persuaded that the factual allegations were deficient, any dismissal would be with leave to
27 amend, as there is no basis for finding that amendment would be futile. Thus, both
28 defendants would remain in the case and the court would be divested of diversity

1 jurisdiction. Accordingly, the motion to remand is GRANTED and the motion to dismiss is
2 DENIED.

3 This matter is hereby remanded to the Alameda County Superior Court. The
4 January 11, 2012 hearing date is VACATED.

5 **IT IS SO ORDERED.**

6 Dated: December 22, 2011


7 PHYLIS J. HAMILTON
8 United States District Judge